

§ 1446.705

paragraph (d) of this section, the CCC Contracting Officer may reduce the amount of penalty that is otherwise determined or assessed in accordance with this part. Such reduction may be made before the penalty is assessed or may be made during the course of an appeal.

(2) *By the Executive Vice President, CCC.* To the extent permitted by the provisions of paragraph (d) of this section, the Executive Vice President, CCC, or the Executive Vice President's designee, may reduce the amount of penalty that has been assessed in accordance with this part.

(c) *Reduction criteria.* A penalty that is determined or assessed in accordance with this part may be reduced by the CCC Contracting Officer or the Executive Vice President, CCC, or the Executive Vice President's designee, if such person determines that:

(1) The violation for which the penalty was assessed was minor or inadvertent;

(2) A reduction in the amount of the penalty would not impair the effective operation of the peanut program; and

(3) The assessment of penalty was not made for failure to export contract additional peanuts.

(d) *Reduction limits.*

(1) If the reduction criteria in paragraph (c) of this section has been met, the CCC Contracting Officer or the Executive Vice President, CCC, or the Executive Vice President's designee, as applicable, may reduce the penalty by such amount as such person considers appropriate (including a full reduction of the entire penalty) after taking into account the severity of the violation and the violation history of the handler.

(2) If one of the criteria in paragraphs (c) (1) and (2) of this section has not been satisfied and the remaining criteria has been satisfied, the penalty shall not be reduced to less than an amount which is equal to 40 percent of the national average quota support rate for the applicable crop year times the quantity of peanuts involved in the violation.

(3) There shall not be a limit on the amount by which an assessment of liquidated damages may be reduced by the CCC Contracting Officer or the Ex-

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ecutive Vice President, CCC, or the Executive Vice President's designee.

[65 FR 64595, Oct. 30, 2000]

§ 1446.705 Appeals.

A handler may obtain reconsideration and review of any adverse determination made under this part in accordance with the appeal regulations found at 7 CFR parts 11 and 780 of this title.

[65 FR 64596, Oct. 30, 2000]

§ 1446.706 Statutory liens against peanuts.

(a) *Lien on peanuts.* Until the amount of any penalty which is imposed upon a handler or other person in accordance with this part is paid, a lien shall exist in favor of the United States for the amount of the penalty. Such lien shall apply on the peanuts with respect to which such penalty is incurred and on any other peanuts purchased or otherwise acquired in the same or subsequent marketing year in which the person liable for payment of such penalty has an interest.

(b) *Debt record.* The lien specified in paragraph (a) of this section shall be considered to attach at the time the penalty is entered on the debt records which shall be maintained for this purpose by the marketing associations, unless an earlier time is prescribed by law.

(c) *List of peanut marketing penalty debts.* Each marketing association shall maintain a debt record for all handlers indicating the amounts due from each handler. This list will be available for examination upon written request to the marketing association by any interested party.

[56 FR 16230, Apr. 19, 1991. Redesignated at 65 FR 64596, Oct. 30, 2000]

§ 1446.707 Schemes and devices.

If CCC or the marketing association, with approval of the CCC, determines that a handler has knowingly adopted any scheme or device which tends to defeat the purpose of the regulations of this part or has made any fraudulent representation, or has misrepresented any fact affecting a program determination, such handler will be subject to a penalty which shall be assessed in

such manner as is determined will correct for such scheme, device, fraud, or misrepresentation.

[56 FR 16230, Apr. 19, 1991. Redesignated at 65 FR 64596, Oct. 30, 2000]

Subpart H—Recordkeeping, Reporting and Paperwork Reduction

§ 1446.801 Recordkeeping and reporting requirements.

(a) *Persons required to keep records.* Any person involved in the peanut industry in any of the following capacities shall keep records for each such business:

(1) A person who dries farmers stock peanuts by artificial means for a producer;

(2) A handler;

(3) A warehouse operator;

(4) A common carrier of peanuts;

(5) A broker or dealer in peanuts;

(6) A processor of peanuts;

(7) A farmer engaged in the production of peanuts;

(8) An agent marketing peanuts for a producer or acquiring peanuts for a handler or marketing association; or

(9) A person engaged in the business of cleaning, shelling, crushing, or salting peanuts or manufacturing peanuts products.

(b) *Handler records and reports of peanuts acquired.* As required by this section and in accordance with instructions issued by CCC, each handler shall keep records and make reports, with respect to each lot of farmers stock peanuts such handler acquires, as follows:

(1) *Inspected peanuts.* (i) If the Federal-State Inspection Service inspects a lot of peanuts, the handler shall complete a form FSA-1007 or such other form approved by CCC or FSA and on which the following information must be entered:

(A) The name and address of the farm operator, and the State and county codes and farm number of the farm on which the peanuts were produced, if the peanuts are marketed by the producer;

(B) The handler number if the peanuts are marketed by a handler;

(C) The buying point number assigned to identify the physical location

of the buying point where the peanuts were marketed;

(D) Either the name, address and handler number of the handler, or if the peanuts are accepted for loan through the marketing association, the marketing association name, number and address;

(E) The net weight of the peanuts;

(F) The quantity of peanuts marketed as either loan quota, loan additional, commercial quota, or contract additional;

(G) The date of purchase; and

(H) The amount of any penalty, assessment or claim collected.

(ii) Handlers described in paragraph (c) of this section shall cause electronic records of the data recorded on form FSA-1007 to be generated and transmitted to FSA. The data shall be transmitted in the manner and by the time prescribed by the Director, TPD.

(2) *Noninspected peanuts.* A handler who acquires farmers stock peanuts which have not been inspected by the Federal-State Inspection Service shall complete a form FSA-1030 or such other form approved by CCC or FSA for general use, for each lot of farmers stock peanuts acquired. The handler shall use FSA-1030-P, Handler's Report of Purchases of Noninspected Peanuts, or such other form approved by CCC or FSA for general use, to transmit the form FSA-1030 or other approved form to the State FSA committee in the State in which the handler's business is located or such other location or entity approved by CCC or FSA. The handler shall complete the form FSA-1030 or other approved form to show the following:

(i) Name and address of the seller;

(ii) Name and address of the farm operator and the State and county codes and farm number of the farm on which the peanuts were produced, if the peanuts are marketed by the producer;

(iii) The handler's name, address and registration number when the peanuts are purchased from another handler;

(iv) Type of peanuts purchased;

(v) Date of purchase;

(vi) Quantity purchased;

(vii) Method of determining the weight; and